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TAXATION OF RAILROAD AND CANAL PROPERTY
IN NEW JERSEY.¹

Chapter 82 of the Session Laws of 1906, passed by the legislature of New Jersey, is intended to alter radically the rate of taxation of railroads and canals in that State. Prior to the enactment of this act the tax rate upon the greater part of such property was by law limited to one-half of 1 per cent. upon the dollar of valuation. Hereafter the greater part of all railroad and canal property is to be taxed at the "average rate of taxation" imposed upon general property. In order to understand the change contemplated by the act in question, several other matters require preliminary explanation. These are, in order, the historical reason for the previous limitation of the rate of railroad taxation, the system of railroad and general taxation in the State, and the reasons for the changes sought by the act under review.

The previous limitation of the tax rate upon the greater part of railroad and canal property to one-half of 1 per cent. of their "true value" dates from the act of April 10, 1884. The explanation of this limitation in the rate is that New Jersey, in common with other commonwealths, encouraged the formation of transportation corporations at their inception by exempting them from taxation or by mitigating the tax burden² which would have fallen upon them under the general tax laws. This policy in New Jersey goes back as far as 1830. In some cases special charters were granted, containing such abatements or exemptions. Some corporations declare that these charters are perpetual and ir-repealable, doubtless basing their contention in part upon the Dartmouth College decision. The act of April 10, 1884, was framed somewhat after the model of the act of April 2, 1873, and continued the limitation in the rate of taxation

¹ In the preparation of this note I have been aided by Hon. H. D. Thompson, member of the General Assembly from Mercer County, to whom I wish to acknowledge my obligation.

² Black, *New Jersey Law of Taxation*, 2d ed., pp. 79, 80.

upon railroad and canal property avowedly as a compromise, designed to mediate between the previous anomaly of railroad taxation and other taxation. The constitutionality of the act of 1884 was contested by certain transportation interests, but it was upheld by the Court of Errors and Appeals, the court of last resort in the State.¹

The act of 1884 created a State Board of Assessors. This board was required to assess the property of railroads and canals. For purposes of assessment the property of such companies was, and continues to be, divided into four classes: (1) main stem or water-way; (2) other real estate; (3) tangible personal property; (4) franchises. The "main stem" of a railroad is defined as covering the road-bed not exceeding one hundred feet in width, including rails, sleepers, and passenger stations.² In the case of canals the "water-way" includes the towing-path and bermebank. "Other real estate" includes road-bed (namely, road-bed other than main stem), water-ways, reservoirs, tracks (sidings), buildings, water-tanks, water-works, riparian rights, docks, wharves, and piers. Tangible personal property includes rolling stock, canal and ferry boats, tools and machinery necessary for and used in State commerce. Franchises include intangible values, and are estimated by the State Board of Assessors presumably at 60 per cent. of the excess, if any, of the value of the securities (bonds and stocks) over the assessed value of main stem, other real estate, and tangible personalty.³ Stocks and bonds are, by law, practically exempt. With the exception of "other real estate" commonly spoken of as "property of the second class," the tax rate on the dollar of assessed value as determined by the State Board of Assessors was by the act of 1884 fixed and limited at one-half of 1 per cent. The revenue so raised

¹ *Central Railroad Co. v. State Board of Assessors*, 19 Vroom, p. 146.

² The Act of February 26, 1906, changes the definition of "main stem" so as to exclude passenger stations and freight buildings.

³ Since 1884 the State Board of Assessors have not published separately the valuation of franchises. In that year they followed the method above indicated. *New Jersey Tax Commission*, 1904-05, *Report and Briefs*, p. 162.

went into the State treasury for State expenses. On property of the second class—namely, “other real estate”—there was also levied a State tax of one-half of 1 per cent. But in addition this property of the second class was liable to a tax for local purposes not to exceed 1 per cent. upon the dollar of valuation as determined by the State Board of Assessors. Beginning in 1897, the entire tax derived from property of the second class was paid over to the various taxing districts traversed by a railroad or canal, each district receiving the tax raised on the State Board of Assessors’ valuation of that segment of railroad or canal located within the local taxing district concerned. In 1905 property of the second class was subjected to taxation *at the prevailing tax rate in the local taxing district*. The assessment of this class of property (real estate other than main stem) continued to be made by the State Board; but the previous maximum limit on the local tax rate (1 per cent.) was done away with. The Maximum Tax Rate Act of 1905 provides, however, that the local rates shall not exceed 1.7 per cent. plus the school tax rate in cities over 50,000 inhabitants, and shall not exceed 1.5 per cent. plus the school tax rate in the other taxing districts.¹ No other tax on said second-class property is levied.

Since 1884 there has been practically no direct State tax in New Jersey. It is true that there is levied a so-called State school tax upon general property as assessed by local assessors. But nine-tenths of the amount collected under this tax in each county is returned to the county, the remainder being distributed by the State, with some discretionary power, to those sections requiring additional funds for schools. This slight exception does not invalidate the general proposition that there has been no direct tax for general State purposes for over twenty years. The revenues from corporations, including the annual tax and charter

¹ By an act passed at the recent session (1906) these maximum rates are repealed and other maxima are prescribed on a sliding scale, the aim being to establish eventually a low tax rate, in the hope that the need of revenue may compel assessors to undertake the listing and taxing of personalty that now escapes.

fees, together with the collateral inheritance tax, provide for the greater part of State expenses. The idiosyncrasies of assessment in the different counties do not, therefore, occasion any great unfairness so far as the taxation of general property is concerned. If Hunterdon County assesses property at 80 per cent. of its true value, and Cape May County at 48 per cent., no great injustice is done as long as both counties raise only the revenue required for local needs.

In 1904, however, complaint had grown acute with respect to what was claimed to be the unfair privilege enjoyed by railroads in the matter of taxation. It was argued that the average rate of taxation on general property in the State was about \$22 per \$1,000 of valuation, while railroads and canals paid at the rate of \$6.80 per \$1,000 of valuation.¹ Certain localities, like Jersey City, were especially aggrieved, alleging that extensive terminals within their limits were taxed at a much lower rate than surrounding real estate. The transportation interests replied that the disparity in tax rates was more apparent than real, owing to the more complete disclosure of their property and its more rigorous assessment by the State Board than was customary in the case of local assessors. It was the old case of *Pot versus Kettle*. Each was able to show the undoubted delinquencies of the other. The issue of "equal taxation" was shown, however, to have great popular strength behind it, and the present law aims at the assimilation of railroad property to other property, so far as the rate of taxation is concerned.

The act of April 5, 1906, is a supplement to the act of March 27, 1888, which, in turn, was a revision of the original act of April 10, 1884, for the taxation of railroad and canal property. The act of this year continues the assessment of the main stem, tangible personalty, and franchise by the State Board of Assessors. The assessment of railroad property of the second class (real estate other than main stem) is hereafter to be made by local assessors. The local assessors in every taxing district of the State are now required on or before October 1 of each year to forward to

¹ *New Jersey Tax Commission of 1904-05, Reports and Briefs*, pp. 105, 106.

the State Board of Assessors a certified statement of the total valuation of property assessed by them, each in his own taxing district, and also the rate of taxation in said district. The aggregate value of all property thus returned shall be deemed "the aggregate value of the general property in the State." The law also requires that the tax rate in each district shall be multiplied into the total property assessed therein, and the several products thus obtained shall be added, and the aggregate so ascertained shall be deemed "the aggregate taxes of the State." The "aggregate taxes of the State" thus defined shall be divided by "the aggregate value of the general property in the State," and the quotient is to constitute the "average rate of taxation" for the year. At this rate the State Board of Assessors are required to compute the tax on main stem, tangible personalty, and franchise. The tax on these elements of railroad and canal property continues to go in the first instance into the State treasury, while the entire taxes raised on railroad property of the second class (real estate other than main stem) continue to go to defray local expenditure. By a separate act, approved April 20, 1906, taxes on classes I., III., and IV. of railroad and canal property in excess of one-half of 1 per cent. on the valuation thereof are "devoted to the maintenance and support of an efficient system of free public schools, and shall be apportioned annually . . . among the several counties of the State . . . in proportion to the amount of taxable real and personal estate of said counties. . ."

The probable results of the act cannot be very accurately forecast. The transportation interests will probably assail its constitutionality, although the decision in the case of *Central Railroad Co. v. State Board of Assessors*, 19 Vroom, p. 146, would seem to indicate that it will stand the judicial test. The railroads are said to be urging local assessors to make a higher valuation of general property to local tax districts, inasmuch as this will reduce "the average rate of taxation," and the railroad taxes in consequence. In case the law stands, it ought largely to augment the receipts of

the State treasury, but just to what degree experiment alone can determine.

Appended is a summarized table taken from page 746 of Part I. of the Annual Report of the State Board of Assessors for 1905:—

Assessed valuation of railroads and canals, excepting property of the second class and tangible personalty, but including valuation of franchises not separately given	\$162,719,300.00
Assessed valuation of tangible personalty necessary for and used in State (not interstate) commerce	27,478,943.00
Total assessable for State uses	190,198,243.00
Assessed valuation of "second-class" property (hereafter to be assessed by local officials and not by State Board of Assessors)	46,522,328.00
Aggregate assessed valuation	236,720,571.00
Tax for State uses	950,991.21
Tax for uses of taxing districts	1,136,261.29
Total taxes assessed (for 1905)	2,087,252.50

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SELIGMAN'S PRINCIPLES OF ECONOMICS.¹

Professor Seligman's volume is designed to be a text-book, and is to be judged mainly as such. No doubt the preparation even of the shortest text-book gives abundant room for the exercise of the critical and constructive faculty. In the present confused state of economic theory there is no possibility of confining one's self to the mere exposition of accepted principles. None the less the main thing is to state clearly and simply those principles—after all, not a few—on which economists are agreed, and to point the way to further study for those who are so minded.

From this point of view the question that presents itself at the outset in considering Professor Seligman's book is the order in which the topics are presented. There is a first

¹ *Principles of Economics, with Special Reference to American Conditions.* By Edwin R. A. Seligman, McVickar Professor of Political Economy, Columbia University. New York: Longmans, Green & Co. 1905.